

JURISDICTION AND VENUE

5. This case is brought under 5 U.S.C. § 552(a)(6)(c)(i) and presents a federal question conferring jurisdiction on this Court.

6. Venue is proper under 5 U.S.C. § 552(a)(4)(B).

BACKGROUND

7. Alexander Perepilichnyy died in Great Britain in 2012.

8. Perepilichnyy was a Russian financier who fled Russia after exposing a \$230 million tax fraud by Russian government officials. *See* BuzzFeed News, Poison in the System (June 12, 2017), https://www.buzzfeed.com/heidiblake/poison-in-the-system?utm_term=.dj9yvMNKzO#.phrDZren03.

9. British police concluded that Perepilichnyy died of natural causes, but tests conducted by his life insurance company found traces of a deadly poison in his body that is known to trigger heart attacks. *Id.*

10. Various law enforcement officials have stated that the death was clearly an assassination. *Id.*

DEFENDANT'S FOIA VIOLATION

11. On September 28, 2018, BUZZFEED made the following FOIA request to STATE: "During the period of 12 June 2017 to 1 August 2018: Please provide any and all emails, memos, letters and/or any other written communications (i.e. text messages) between US government agencies (including the US Embassy in London) and any other party referring to my name (Jane Bradley) and/or BuzzFeed and our query relating to the ongoing inquest and death of Alexander Perepilichnyy. Please provide all records, including but not limited to emails, memos, and letters, between the US Embassy in London and the Office of the Director of National

Intelligence (ODNI) mentioning or referring to Alexander Perepilichnyy, and between the US Embassy in London and the ongoing coroner's inquest in the UK into Perepilichnyy's death." A true and correct copy of the request and the related communications is attached as Group Exhibit A.

12. On December 21, 2018, after the statutory deadline to issue a determination had already passed, STATE acknowledged receipt of the request and assigned it control number F-2018-07416.

13. BUZZFEED followed up with STATE about the request multiple times, including asking STATE to provide an estimated completion date, which STATE is required to provide under the FOIA statute.

14. As of the date this complaint has been filed, STATE has not provided an estimated completion date, and has not informed BUZZFEED of the scope of documents that it will produce or withhold under any FOIA exemptions (*i.e.*, STATE has not provided a "determination" as that term has been defined by the D.C. Circuit).

15. As of the date this complaint has been filed, STATE has not produced any records. Under the plain text of FOIA, STATE was required to have provided the records "promptly," which is defined as "with little or no delay; immediately." *See Food Marketing Institute v. Argus Leader*, 588 U.S. ____ (2019), No. 18–481, Slip Op. at 5, 7 (interpreting FOIA terms using dictionary definitions).

16. This is BUZZFEED's third lawsuit in this District against STATE in which STATE failed to provide determinations by the required deadlines or promptly produce records. *See* 18-cv-01550; 18-cv-02372; *see also Am. Ctr. for Law & Justice v. United States Dep't of State*, 249 F. Supp. 3d 275, 285 (D.D.C. 2017) (noting State's failure to issue a determination by

the required deadline); *Judicial Watch, Inc. v. U.S. Dep't of State*, 241 F. Supp. 3d 174, 177 (D.D.C.), amended on reconsideration, 282 F. Supp. 3d 338 (D.D.C. 2017) (same); *James Madison Project v. Dep't of State*, 235 F. Supp. 3d 161, 164 (D.D.C. 2017) (same); *Judicial Watch, Inc. v. United States Dep't of State*, 235 F. Supp. 3d 310, 312 (D.D.C. 2017) (same).

COUNT I – VIOLATION OF FOIA

17. The above paragraphs are incorporated herein.
18. STATE is an agency subject to FOIA.
19. BUZZFEED made a FOIA request to STATE for agency records of STATE.
20. STATE failed to produce the requested records.

COUNT II – PATTERN AND PRACTICE

21. The above paragraphs are incorporated herein.
22. STATE is engaged in a pattern and practice of failing to comply with the deadlines required under FOIA.

WHEREFORE, Plaintiff asks the Court to:

- i. Order STATE to produce the requested records immediately;
- ii. Award BUZZFEED attorney fees and costs;
- iii. Award systemic injunctive relief that will require STATE to comply with the deadlines under FOIA in a timely manner;
- iv. Enter all other relief the Court deems appropriate or that is justified under the statute.

DATED: July 18, 2019

Respectfully Submitted,

/s/ Matthew Topic

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